

HR Weekly Podcast
02-12-2014

Today is February 12, 2014, and welcome to the HR Weekly Podcast from the State Human Resources Division. This week's topic discusses a recent unpublished federal court of appeals decision concerning a claim brought under the Americans with Disabilities Act, or ADA, where the employer fired the employee because she failed to return in a timely manner from a medical leave taken under the Family Medical Leave Act, or FMLA.

In Owens v. Calhoun County School District, No. 12-60897, the Fifth Circuit Court of Appeals upheld a district court's grant of summary judgment in favor of the employer. Karen Darlene Mann Owens, a teacher at Bruce Upper Elementary School in Mississippi, suffered from back and neck pain for a number of years prior to her termination. On October 19, 2009, Owens underwent surgery on her neck and back, followed by a leave of absence covered under the FMLA. On January 20, 2010, the school principal asked Owens when she would be returning to work. Owens said she had a doctor's appointment on February 12, 2010, and would have more information at that time. The county school superintendent sent a letter to Owens warning her that her FMLA leave would soon end and requesting that she provide a return-to-work date. Owens again stated that she had a doctor's appointment on February 12, 2010, but did not provide a return-to-work date. On February 9, 2010, the superintendent sent a letter to Owens terminating her employment for failing to return to work before her FMLA leave expired on February 1, 2010, and failing to provide a return-to-work date.

Owens appealed the termination to the school board which upheld the termination and she then filed a lawsuit alleging violations under the ADA; the Age Discrimination in Employment Act, or ADEA; the FMLA; and a state law breach of contract claim and claims under the First and Fourteenth Amendments of the United States Constitution. The state law breach of contract claims were made in relation to statements that she had made in an attempt to secure educational support for her son. After the dismissal of all of her claims and a series of procedural issues, Owens appealed only the dismissal of her ADA claim and her First Amendment retaliation claim to the Fifth Circuit.

The Fifth Circuit upheld the dismissal of her First Amendment claim because such a claim requires speech related to a "matter of public concern," and Owens alleged she was fired for making an educational request for her son which the court deemed as a private concern. The Fifth Circuit also upheld the dismissal of her ADA claim on the basis that Owens failed to provide evidence that the school district's reason for firing her, based on failure to provide a return-to-work date or return to work at the expiration of her FMLA leave, was a pretext for disability discrimination. The court found the record was "replete with evidence that Owens was fired for reasons other than her disability" including the fact that Owens admitted she had failed to return to work at the expiration of her FMLA leave, failed to provide a return-to-work date or a doctor's statement that she was cleared to return to work at any point.

The school districts documentation of its communications to Owens informing her of the expiration of her FMLA leave and its attempts to obtain her return-to-work date led to the employer's successful defense in this matter. This decision demonstrates the importance of clear, contemporaneous, and objective documentation by employers.

If you have questions about this topic, please contact your HR consultant at 803-896-5300. Thank you.